

**CITY OF MORGAN HILL  
JOINT SPECIAL AND REGULAR CITY COUNCIL AND  
SPECIAL REDEVELOPMENT AGENCY MEETING  
MINUTES - DECEMBER 4, 2002**

**CALL TO ORDER**

Mayor/Chairperson Kennedy called the meeting to order at 6:05 p.m.

**ROLL CALL ATTENDANCE**

Present: Mayor/Chairperson Kennedy, Council/Agency Members Carr, Tate, Sellers  
Late: Council Member/Vice-chair Chang (arrived at 6:08 p.m.)

**DECLARATION OF POSTING OF AGENDA**

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

***City Council and Redevelopment Agency Action***

**CLOSED SESSIONS:**

City Attorney/Agency Counsel Leichter announced the following closed session items.

**1.**

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Significant Exposure/Initiation of Litigation

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 2

**2.**

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Case Name: Drivers' Placement v. City of Morgan Hill

Case Number/Court: Santa Clara Superior Court Case No. CV788941

Attendees: City Manager, City Attorney, Special Counsel Dan Siegel, Public Works Director

**3.**

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Legal Authority: Government Code Section 54965.9(a)

Case Name: Morgan Hill Unified School District v. Minter & Fahy

Case No.: Santa Clara County Superior Court, No. CV 772368

Attendees: City Council, City Manager, City Attorney, Public Works Director, and Mark Strombotne, Special Counsel

**OPPORTUNITY FOR PUBLIC COMMENT**

Mayor/Chairperson Kennedy opened the closed session items to public comment. No comments were offered.

### **ADJOURN TO CLOSED SESSION**

Mayor/Chairperson Kennedy adjourned the meeting to closed session at 6:06 p.m.

### **RECONVENE**

Mayor/Chairperson Kennedy reconvened the meeting at 7:04 p.m.

### **CLOSED SESSION ANNOUNCEMENT**

City Attorney/Agency Counsel Leichter announced that there was no reportable action taken in closed session.

### **SILENT INVOCATION**

### **PLEDGE OF ALLEGIANCE**

At the invitation of Mayor/Chairperson Kennedy, Gina Estrada, Live Oak High School student, led the Pledge of Allegiance.

## ***City Council Action***

### **1. NOVEMBER 5, 2002 GENERAL MUNICIPAL ELECTION - CERTIFIED STATEMENT OF ELECTION RESULTS - Resolution No. 5627**

Council Services and Records Manager/City Clerk Torrez presented the staff report. She indicated that Resolution No. 5627 has been distributed to the City Council reciting the results of the election. She recommended adoption of Resolution No. 5627.

***Action:***        *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council unanimously (5-0) **Adopted** Resolution No. 5627, Reciting the Facts of the General Municipal Election of November 5, 2002.*

### **OATHS OF OFFICE:**

City Clerk Torrez administered the Oaths of Office to Mayor-Elect Dennis Kennedy, Council Member-Elect Greg Sellers and Council Member-Elect Steve Tate.

## ***City Council and Redevelopment Agency Action***

### **2. SELECTION OF CITY COUNCIL MAYOR PRO TEMPORE AND REDEVELOPMENT AGENCY VICE-CHAIR**

Mayor/Chair Kennedy opened the floor to nominations for Mayor Pro Tempore and Vice-chair.

### **City Council**

**Action:**      *Council Member Sellers made a motion, seconded by Council Member Tate to **nominate** Council Member Chang to serve as Mayor Pro Tempore.*

**Action:**      *The City Council unanimously (5-0) **confirmed** the Mayor's Appointment of Council Member Chang to serve as Mayor Pro Tempore.*

### **Redevelopment Agency**

**Action:**      *Agency Member Sellers made a motion, seconded by Chairman Kennedy to **nominate** Agency Member Tate to serve as Redevelopment Agency Vice-chair for the upcoming year.*

Agency Member Tate stated that he supported Council/Agency Member Carr's suggestion of having the same individual serving as Mayor Pro Tempore and Vice-chair.

Agency Member Sellers noted that Agency Member Tate had not yet had the opportunity to serve as Vice-chair, thus his nomination. However, if it is the preference of the City Council/Agency Board to have the same individual serve in both capacities in order for the same individual to take the lead of joint Council/Redevelopment Agency meeting's and to avoid confusion, he would support the action.

Agency Member Tate felt that it would be consistent to have the same individual fill in for Mayor/Chair Kennedy in both roles in his absence.

**Action:**      *Agency Member Sellers and Chairman Kennedy **rescinded** their motion.*

**Action:**      *Agency Member Sellers made a motion, seconded by Chairman Kennedy, to **nominate** Agency Member Chang to serve as Redevelopment Agency Vice-chair.*

**Action:**      *The Redevelopment Agency unanimously (5-0) **confirmed** Chairman Kennedy's appointment of Agency Member Chang to serve as Redevelopment Agency Vice-chair.*

City Clerk/Agency Secretary Torrez inquired whether the City Council/Redevelopment Agency would like staff to return with a policy that would stipulate that the Mayor Pro Tempore and Vice-chair are to be the same individual for Council/Agency consideration?

**Action:**      *Mayor Kennedy **requested** that staff return with a proposed policy change that would give consideration to the same Council/Agency Member serving as Mayor Pro Tempore as Vice-chair for future appointments for Council/Agency consideration.*

## ***City Council Action***

### **PRESENTATIONS**

Steve Woodill, California Department of Forestry (CDF) of Santa Clara, presented a commemorative plaque to the City of Morgan Hill, its citizens, staff and elected officials for its support of CDF with the Croy Fire incident and the residents of the Croy area affected by the fire. He said that it was great to see how well south county pulled together. He appreciated the assistance of Chief of Police Galvin, the OES coordinator, the videographer, and the City's closed circuit cable television system that allowed CDF to get a lot of the fire information out. He appreciated the amount of interest and concern that was shown in this incident.

Mayor Kennedy stated that he was incredibly impressed with the professional work of all CDF firefighters.

### **ANNOUNCEMENTS**

Council Members Sellers and Tate announced the Morgan Hill Community and Cultural Center Grand Opening week of activities to take place December 7 through 14, starting with a sold out Mayor's ball and ending with a teen dance.

Mayor Kennedy thanked Council Member Sellers for heading up the week-long activities that have been planned for the Grand Opening. He also thanked Council Member Tate, staff and the tremendous number of volunteers who have worked to help put this wonderful week of celebration together as it is a truly exciting time for the city and the community.

### **CITY COUNCIL REPORT**

Mayor Pro Tempore Chang reported on the following: 1) Day Workers Committee - a lease is being prepared for the Isaacson Grain Company facility. It is hoped to be able to move into the building some time next month. She thanked staff for its assistance on this effort, especially Assistant to the City Manager Eulo. 2) Approximately one month ago, Director of Public Works Ashcraft, Mayor Springer (Gilroy) and she traveled to San Luis Obispo and presented the Wetland Concept to the Regional Wastewater Control Board Members. She stated that Mr. Ashcraft identified what steps will need to be taken at a later date. 3) The Water District wanted to change an ordinance in order to expand their territory from 50' to 150' from the bank. City staff met with the Water District and other staff members from Santa Clara County and have stalled the proposed ordinance amendment for six months to allow further discussion. She felt that Mr. Ashcraft performed a great job on this effort. 4) Legislative Task Force - Cities Association. She indicated that two important issues are coming up: a) Affordable housing - There is a recommendation to change some of the redevelopment zones. She thanked City Manager Tewes for his connection with the California Redevelopment Agency. She was introduced to Matthew Dean, CRA legislative lawyer, who gave input and insights on how to handle this matter. b) Teacher Housing program. She indicated that she has asked that Council Member Carr be a part of this Committee. 5) A County Blue Ribbon Task Force was established to try to improve the quality of education in Santa Clara County. The Task Force is focusing on securing qualified teachers and their retention. She indicated that another forum will be held next week and requested that Council Members attend this meeting and provide input.

### **CITY MANAGER'S REPORT**

City Manager Tewes reported that a special session of the legislature began this week and that the Governor has asked the legislature to tackle the current year's budget. He stated that it is too early to determine what will come out of their discussions and that the City would need to stand by. He reported that the December City Visions' issue will include an article that will advise the public that the City would again be following a furlough schedule during the holiday season. He stated that City Hall would be closed from Monday, December 23 and reopen Thursday, January 2, 2003. He said that during this period, normal business at City Hall would not be conducted but that all public safety services would be made available. Public Works response crew would also be available during the holidays as well.

### **CITY ATTORNEY'S REPORT**

City Attorney Leichter stated that she did not have a report to present this evening.

### **OTHER REPORTS**

Council Member Tate reported that the City of Morgan Hill did not make the first round of the Library Project Bond Act, noting that there were 61 applications for the first round of funding for the Proposition 14 Bond Act, passed in 2000 that allocates \$350 million to the building or remodeling of library facilities. He said that the criteria was very competitive where you competed against other cities who want to build libraries. He said that the City needs a new library as the current facility is too small, does not afford enough parking, one cannot find a place to sit down, and books are found all over the floor.

Council Member Tate indicated that there would be three cycles of award with the first cycle taking place this past Monday in Sacramento. The State has a seven-member board consisting of state agency employees, a member of the state senate, a member of the state assembly and one outside business person. The 61 applications in the first round were ranked as follows: outstanding, very good, adequate, and two lower categories. He said that 14 applications were deemed to be outstanding, 33 of the applications were deemed to be very good, and 14 were deemed to be acceptable. On Monday, the State Board awarded 13 out of the 14 outstanding projects bond funds.

Council Member Tate indicated that Morgan Hill submitted a very good application. He addressed how the City was rated in the four categories (age of current building; how well City defined needs and how well does the proposal meets this need, including a joint venture with a School District; technology, and appropriateness of the site). The Board felt that the City had a good joint use agreement, however, the financial commitment from the School District was a little too tentative. The Board also wanted the City to address how technology would be implemented. He did not see anything standing in the way of the City improving in certain areas and felt that the City would be submitting an outstanding application in March 2003. However, it is expected that 100 applications would be submitted in the second round, resulting in greater competition.

### **PUBLIC COMMENT**

Mayor/Chairperson Kennedy opened the floor to comments for items not appearing on this evening's agenda.

Grady Jackson, 165 East Edmundson Avenue, indicated that he resides adjacent to an apartment complex. He expressed concern with the non stop flow of noise, traffic, overflow of cars, speeding, damage to his fence and to his vehicle. He stated that he has been in touch with every agency in Morgan Hill and that he does not get anywhere. He said that there is a lot of gang activity in his neighborhood and requested Council assistance with this non stop battle. He stated that he has spoken with the property owner to no avail. He said that the problems have affected his trash, mail and street sweeping services.

Mayor Kennedy invited Mr. Grady to meet with he and City Manager Tewes during the break to follow up with his concerns and complaints to see if there is anything that can be done to address them.

No further comments were offered.

## ***City Council Action***

### **CONSENT CALENDAR:**

Council Member Sellers requested that item 4 and Mayor Kennedy requested that item 5 be removed from the Consent Calendar.

**Action:** *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council unanimously (5-0), **Approved** Consent Items 3 and 6 - 10, as follows:*

3. **ANNUAL REPORT ON ADVANCED LIFE SUPPORT SERVICES**

**Action:** ***Accepted** Report from Santa Clara County Fire Department for Advanced Life Support (ALS) Services From July 2001 to August 2002.*

6. **GENERAL PLAN IMPLEMENTATION REPORT FOR FISCAL YEAR 2001-2002**

**Action:** ***Accepted** Report by Minute Action.*

7. **2002-2003 HAZARDOUS VEGETATION PROGRAM - Resolution No. 5626**

**Action:** ***Adopted** Resolution No. 5626 Declaring Weeds and Brush to be a Nuisance and Setting February 5, 2003 as the Date for the Public Hearing Regarding Weed Abatement; and June 4, 2003 as the Date for the Public Hearing Regarding Brush Abatement.*

8. **ADOPT ORDINANCE NO. 1597, NEW SERIES**

**Action:** ***Waived** the Reading, and **Adopted** Ordinance No. 1597, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as follows: An Ordinance of the City Council of the City of Morgan Hill Approving an Amendment to Ordinance No. 1530, New Series, Amending the Development Agreement for Application MP 99-26: Malaguerra-Ansuini/Mancias to Incorporate a Five-month Extension of Time for Seven Building Allotments in Phase One and a Six-month Extension of Time for Six Building Allotments in Phase Two. (APN 728-35-016; 728-35-017)*

9. **SPECIAL CITY COUNCIL MEETING MINUTES FOR NOVEMBER 13, 2002**

**Action:** *Approved the Minutes as Submitted.*

10. **SPECIAL CITY COUNCIL MEETING MINUTES FOR NOVEMBER 13, 2002**

**Action:** *Approved the Minutes as Submitted.*

4. **AMENDMENT TO LEASE WITH GAVILAN COMMUNITY COLLEGE**

Council Member Sellers stated that it was brought to his attention that should Gavilan College lease out their current facility sooner, they are not obligated to pay leasing costs to the City any sooner. He requested City Attorney clarification.

City Attorney Leichter referred Council Member Sellers to the amendment located on Page 14 of the agenda packet. The amendment provides that should Gavilan College recognize any costs savings from earlier double occupancy that they agree to pay the cost savings in the form of rent to the City up to a maximum of 50%.

Mayor Kennedy inquired whether the City would be allowed to make use of unused classroom spaces for other activities?

City Attorney Leichter clarified that Gavilan College has rented the entire premises. If Gavilan College wishes to rent such space back to the City or allow the City to use the space on a casual basis, the lease would not prohibit this.

Mayor Kennedy recommended that a provision be included that would allow City use of unused classroom spaces.

City Attorney Leichter stated that this can be done but that some issues would need to be worked out in terms of maintenance and security. She said that these issues can be approached by means of another amendment to the agreement.

City Manager Tewes indicated that there may be some points during the day when a particular classroom may be vacant, but that Gavilan College intends to use all of the space that they are renting.

Mayor Kennedy suggested that should Gavilan College have some space available, that the City be allowed to use the space.

City Attorney Leichter said that should Gavilan College not be able to fill a classroom in the quarter/semester, the City could approach them about making the vacant room available to the City.

**Action:** *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0): 1) **Authorized** the City Manager to do Everything Necessary to Prepare and Execute a Lease Amendment with Gavilan College; 2) **Appropriated** \$15,000 in the General Fund's Community and Cultural Center Budget and Increased Revenue Projections for the General Fund by \$15,000; and*

3) **Authorized** the Addition of a One-Half Time (.5 FTE) Janitorial Position in the Community and Cultural Center Budget.

**5. AWARD OF CONTRACT FOR DOWNTOWN TRANSIT CENTER AT-GRADE PEDESTRIAN CROSSING PROJECT**

Mayor Kennedy stated that he and Public Works Director Ashcraft have been working on this project for over seven years. He said that this is a milestone project that the City has been trying to accomplish. The project is an at grade pedestrian crossing across the railroad tracks that would connect the two sides of the tracks together so that people wishing to go to an event downtown can park on the east side of the Caltrain Park and Ride lot and be able to walk across the tracks safely. It would also allow the City to better utilize the small train station building located on the west side of the track and for overflow parking for events that may occur in the downtown or the Community and Cultural Center. He said that this project is scheduled to be completed by March 15, 2003, weather permitting.

**Action:** *On a motion by Mayor Pro Tempore Chang and seconded by Council Member Sellers, the City Council unanimously (5-0): 1) **Appropriated** \$45,600 from the Unappropriated Redevelopment Agency Fund Balance to Fully Fund This Project; and 2) **Awarded** contract to McGuire and Hester for the Construction of the Downtown Transit Center At-Grade Pedestrian Crossing Project in the Amount of \$137,916.00.*

**PUBLIC HEARINGS:**

**11. DEVELOPMENT AGREEMENT, DA 02-10: E. DUNNE AVENUE-FIRST COMMUNITY HOUSING**

Director of Community Development Bischoff presented the staff report, informing the City Council that agenda items 11, 12 and 13 are all development agreements. He informed the City Council that all three items were improperly noticed. He said that the noticing sent to the adjoining property owners was correct but that the notice to the newspaper gave the wrong hearing date. He apologized for this error. He recommended that the Council open the public hearing and then continue the public hearings for items 11, 12 and 13 to December 18, 2002.

Mayor Kennedy opened the public hearing. No comments were offered.

**Action:** *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council unanimously (5-0), **Continued** the public hearing to December 18, 2002.*

**12. DEVELOPMENT AGREEMENT AMENDMENT, DAA 01-06: COCHRANE-COYOTE ESTATES**

Mayor Kennedy opened the public hearing. No comments were offered.



**Action:**        *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0), **Continued** the public hearing to December 18, 2002.*

**13.     DEVELOPMENT AGREEMENT, DA 02-07: SHAFER-BAMDAD**

Mayor Kennedy recused himself from this item as he resides within 500 feet from this project.

Mayor Pro Tempore Chang opened the public hearing. No comments were offered.

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Mayor Kennedy recusing himself, **Continued** the public hearing to December 18, 2002.*

Mayor Kennedy resumed his seat on the dais.

**OTHER BUSINESS**

**14.     WAIVER OF POTENTIAL CONFLICT OF INTEREST WITH STANDARD FUSEE CORPORATION**

City Attorney Leichter presented the staff report, indicating that the law firm of Sedgwick, Detert, Moran & Arnold represents the Corporation Yard Commission in the lawsuit over the fuel tank leak at the Corporation Yard. She indicated that they do not represent the City, per se, but that they do represent the Corporation Yard Commission. She indicated that the law firm would like to represent a potential litigant in another case involving the City in a contamination of ground water from a chemical spill. She said that the potential client may have contributed to the contamination and that the law firm would like the ability to represent this case. She said that the waiver of conflict of interest under the California Bar Rules of Ethics requires that one disclose any potential conflict to a client and obtain a written consent to such representation. She stated that staff has some concerns that the law firm may obtain information in their representation of the Corporation Yard Commission about the City's ground water supplies, including City policies and internal working on how it operates within this system. This information may be advantageous to Standard Fusee in the subsequent matter. She said that this is a discretionary action of the City Council and is a Council comfort level as to whether it would like to waive the conflict of interest.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Council Member Tate stated that he was not comfortable with the approval of the request. He recommended that the City Council take no action on the request.

Mayor Kennedy concurred with Council Member Tate and felt that the two locations were too close together and have too much in common. Therefore, he would not support the request.

**Action:**        *By consensus, the City Council **took no action** on this item.*

City Attorney Leichter indicated that she would communicate to Mr. Casto, the attorney with Sedgwick, that the Council did not approve the conflict of interest waiver.

**15. MEXICAN AMERICAN COMMUNITY SERVICES AGENCY INC. (MACSA)  
REQUEST FOR FUNDING**

Council Services and Records Manager Torrez presented the staff report.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Council Member Sellers stated that MACSA is a very worthwhile community organization and performs great work throughout the valley. He noted that the Council denied a request from United Way a couple of weeks ago under similar circumstances. He said that he has a thought about how the Council can be helpful, but not necessarily financially or directly. He noted that the staff report indicates that MACSA is requesting the City Council to sponsor a major event that they are having with the group called Culture Clash. He noted that this performance coincides with the opening of the Morgan Hill Community Playhouse. He requested the opportunity to talk to Ms. Mendiola to see if there is an opportunity to do something at the Performing Arts Center in conjunction with the City's Community Playhouse, should the Council support his request. He felt that this would be a benefit without the City having to incur expenses for an organization that does great work, but not directly in Morgan Hill. Should the Council concur with his request, he would work toward discussions with Ms. Mendiola to see how the City can work with MACSA toward a mutual benefit.

Mayor Pro Tempore Chang and Mayor Kennedy supported Council Member Sellers suggestion.

Council Member Carr encouraged Council Member Sellers to include South Valley Civic Theater in his discussions as they have a performance scheduled as well.

**Action:** *It was the consensus of the City Council to **Authorize** Council Member Sellers to proceed with fundraising discussion opportunities with MACSA.*

**16. PROPOSED AMENDMENTS TO THE SANTA CLARA COUNTY CITIES  
ASSOCIATION BYLAWS**

Mayor Kennedy stated that he has read through the proposed Bylaw changes and that the proposed amendments cleans up some of the language and also changes the name of the Legislative Committee to a Legislative Action Committee. As the Council's representative to the Cities Association, he recommended approval of the amendments.

Mayor Kennedy opened the floor to public comment. No comments were offered.

**Action:** *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0), **Directed** staff to **Forward** the City Council's approval of the proposed Cities Association Bylaw Amendments to the Santa Clara County Cities Association.*

**17. REVIEW OF CITY COUNCIL COMMITTEES AND APPOINTMENTS TO OUTSIDE AGENCIES**

Council Services and Records Manager Torrez presented the staff report. She indicated that staff distributed a supplemental handout from the Cities Association requesting that the Council consider four other committee assignments and forward Council Member(s) interest in serving on these committees.

Mayor Kennedy suggested that each Council Member identify changes to current assignments and that they be submitted to him through Lisa Lewis. The actual appointments to take place at the next Council meeting.

Council Member Sellers noted that the Finance & Audit Committee lists Council member's yearly rotation. He requested that staff review the order of rotation as it appears that he would be serving alone on this committee for a short period of time.

Mayor Pro Tempore Chang inquired about the Economic Development Subcommittee as a rotating subcommittee.

City Manager Tewes indicated that each council member expressed some interest in participating on this subcommittee. As it stands now, the current subcommittee is a limited specific purpose committee term. He indicated that in the draft Economic Development Strategy, the subcommittee is recommending the creation of a permanent economic development subcommittee. When the draft Economic Development Strategy returns to the Council that would be the appropriate time to discuss whether or not the Council should make this a permanent committee and whether the rotation should occur.

Mayor Pro Tempore Chang noted that she was appointed as an alternate to the current subcommittee.

Council Services and Records Manager Torrez requested that Council Members identify any other outside agency/committee assignments not listed so that the Outside Agency/Committee listing can be as comprehensive as possible.

Council Member Sellers indicated that he serves on the Downtown Task Force.

Council Member Tate noted that he and Council Member Carr serve on the Measure P Task Force.

Mayor Kennedy recommended that the Greenbelt Study Committee be listed as a Committee with appointments open.

Council Member Tate indicated that he was happy with his assignments and that he would not be requesting changes.

Council Member Sellers indicated that he would not be requesting changes to his assignments.

Council Member Carr stated that the only change he had was to the Santa Clara County Pollution Prevention Program, a seat shared with the City of Gilroy. He indicated that he no longer fills this position as he had to step down from the position. It was his belief that this was an open seat at this time, noting that the County Cities Association makes this appointment.

Mayor Kennedy indicated that the County Cities Association recently appointed Roland Velasco to the Pollution Prevention Program as recommended by the City of Gilroy. He recommended that it be indicated that this seat is being filled by Gilroy at this time.

Council Member Carr indicated that he was satisfied with his current assignments as well.

Mayor Pro Tempore Chang stated that she was satisfied with her assignments.

Council Member Tate stated that he and Council Member Carr, as the Economic Development Strategy subcommittee, would be returning with a recommendation on rotation to the Economic Development Strategy Subcommittee.

**Action:**      *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Concurred** with the Mayor's appointment to retain the current Council Members' Committees and Outside Agencies assignment with the amendments/additions as mentioned above.*

**Action:**      *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Directed** the City Clerk to Notify the Appropriate Agencies of Amended Assignments.*

Regarding the Cities Association request for Council interest in serving on the Local Agency Formation, Mayor Kennedy indicated that he had expressed interest in this position. However, due to the fact that Susan Wilson, a Morgan Hill resident, is serving on this committee, the appointed individual could not be from the same city. Therefore, he withdrew his application. It was his belief that this would also apply to the alternate.

Council Member Tate pointed out that the Pollution Prevention Advisory Committee has an opening for South County.

Council Member Carr noted that the City of Gilroy has filled his vacated position on the Pollution Prevention Advisory Committee.

Mayor Kennedy noted that there are two candidates for this position: the incumbent John Mclemore and the other is Dave Cortese recommended by Mayor Gonzalez. He felt that these were two tough competitors.

Mayor Kennedy noted that there was no interest in serving on the Recycling and Waste Reduction Commission on the Metropolitan Transportation Commission outside agency committees.

## ***City Council and Redevelopment Agency Action***

### **CONSENT CALENDAR:**

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0), **Approved** Consent Calendar Items 18 and 19, as follows:*

18.    **SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF NOVEMBER 20, 2002**

**Action:** ***Approved** the Minutes as Submitted.*

19.    **SPECIAL CITY COUNCIL MEETING MINUTES OF NOVEMBER 13, 2002**

**Action:** ***Approved** the Minutes as Submitted.*

### **FUTURE COUNCIL-INITIATED AGENDA ITEMS**

No items were identified.

### **ADJOURNMENT**

There being no further business, Mayor/Chairperson Kennedy adjourned the meeting at 8:05 p.m. to a reception in honor of re-elected Mayor Kennedy, Council Member Sellers and Council Member Tate.

### **MINUTES RECORDED AND PREPARED BY**

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**IRMA TORREZ, City Clerk/Agency Secretary**



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: December 18, 2002***

**TITLE: DEVELOPMENT AGREEMENT AMENDMENT  
DAA 01-06: COCHRANE-COYOTE ESTATES**

### **RECOMMENDED ACTION(S):**

1. Reconvene/close Public Hearing
2. Waive the First reading in full of the development agreement amendment (DAA) Ordinance
3. Introduce on first reading the DAA Ordinance (roll call vote)

**EXECUTIVE SUMMARY:** This item was originally scheduled to be heard by the City Council at their December 4, 2002 meeting. Due to a public noticing error, the item was continued to the December 18, 2002 City Council meeting. The subject property, phase VI of Coyote Estates, consists of 16 lots that received five building allotments for FY 2001-02 and eleven allotments for FY 2002-03. The applicant is requesting approval of a Development Agreement Amendment to allow for a six-month extension of time for the five building allotments for FY 2001-2002 and five months extension of time for the eleven allotments for FY 2002-2003. The applicant previously amended his development agreement receiving approval of an extension of time for six months for the five building allotments for FY 2001-2002 in July 2002.

An extension of time is needed because the project was delayed due to an expanded environmental initial study and extended City processing. The initial study delayed approval of the tentative map. After approval of the tentative map and mitigated negative declaration in July 2002, the applicant applied for his final map and improvement plans in July 2002. The final map and improvement plans have been approved by Public Works Department and the map is ready to be signed. The applicant needs an extension of time for FY 2001-2002 allotments so he has enough time to secure building permits and commence construction. For the FY 2002-2003 extension of time request, the applicant needs additional time to obtain financing for his allotments. Under Section 18.78.125.G of the Municipal Code, the City Council may grant an exception to the loss of allocation if it finds that the cause for the lack of commencement was the City's failure to grant a building permit for the project due to extended delays in environmental reviews, permit delays not the result of developer inaction, or allocation appeals processing.

The Commission reviewed the development agreement amendment application at their November 12, 2002 meeting and voted unanimously to recommend approval to the Council. The Commission also recommended that language be added to the development agreement requiring the applicant to report sales data to the City on an annual basis for the purpose of updating the City's Housing Element. A copy of the Commission's staff report and minutes are attached for the Council's reference.

**FISCAL IMPACT:** None. Filing fees were paid to the City to cover the cost of processing this application.

**Agenda Item # 16**

**Prepared By:**

**Assistant Planner**

**Approved By:**

**Community  
Development Director**

**Submitted By:**

**City Manager**

## **ORDINANCE NO. 1598, NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1523, NEW SERIES, TO AMEND THE DEVELOPMENT AGREEMENT TO INCORPORATE A SIX MONTH EXCEPTION TO LOSS OF BUILDING ALLOCATION FOR 5 BUILDING ALLOTMENTS FOR FY 2001-2002 AND A FIVE MONTH EXCEPTION TO LOSS OF BUILDING ALLOCATION FOR 11 BUILDING ALLOTMENTS FOR FY 2002-2003 FOR APPLICATION MP 00-22: COCHRANE - DIVIDEND (APNs 728-42-008, 017; AND 728-43-021.)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:**

**SECTION 1.** The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

**SECTION 2.** The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

**SECTION 3.** The Planning Commission and City Council, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 01-32, adopted May 22, 2001 and City Council Resolution No. 5473 approved July 11, 2001, has awarded allotments to a certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP 00-22: Cochrane-Dividend Homes	5 for FY 2001-02 & 11 for FY 2002-03

**SECTION 4.** The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

**SECTION 5.** Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

**SECTION 6.** EXCEPTION TO LOSS OF BUILDING ALLOCATION. The project applicant has in a timely manner, submitted necessary planning applications to pursue development. The applicant is requesting to amend the approved development agreement to allow for a six-month extension of time for 5 building allotments for FY 2001-2002 and a five-month extension of time for 11 building allocations for FY 2002-2003, due to delays not the result of developer inaction. Delays in the project processing have occurred due to extended environmental review and City processing.

Exception to Loss of Building Allocation, extending the time for commencement of construction for 5 units from December 30, 2002 to May 31, 2003 and for 11 units from June 30, 2003 to December 30, 2003 is granted.

**SECTION 7.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 8.** AMENDMENT TO PARAGRAPH 14, ADDING THE FOLLOWING SUBSECTION (v). The project shall provide the following information, by address for each unit, to the Community Development Department:

- Date of sale
- The number of bedrooms.
- The final sales price

This information shall be reported on an annual basis for the calendar year and is due to the City by March 30 of the following year for every year until the project is completed and all units are sold.

**SECTION 9.** Exhibit B of the development agreement is amended to read as follows:

### **EXHIBIT "B"**

#### **Amendment to Exhibit "B" of DA -01-06: Cochrane-Coyote Estates**

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##### **DEVELOPMENT SCHEDULE MP-00-22: Cochrane-Dividend Homes FY 2001-2002, FY 2002-2003**

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<b>I.</b>	<b>SUBDIVISION AND ZONING APPLICATIONS</b> Applications Filed:	July 31, 2001
<b>II.</b>	<b>SITE REVIEW APPLICATION</b> Application Filed:	July 31, 2001
<b>III.</b>	<b>FINAL MAP SUBMITTAL</b> Map, Improvements Agreement and Bonds:	March 1, 2002
<b>IV.</b>	<b>BUILDING PERMIT SUBMITTAL</b> Submit plans to Building Division for plan check:	April 2, 2002
<b>V.</b>	<b>PULL BUILDING PERMITS-FY 2001-02</b> <u>5 permits</u> must be pulled from the Building Division:	<del>May 8, 2002</del> <del>November 8, 2002</del> May 31, 2003
<b>VI.</b>	<b>COMMENCE CONSTRUCTION-FY 2001-02</b> Construction must have begun on 5 permits.	<del>June 30, 2002</del> <del>December 30, 2002</del> May 31, 2003
<b>VII.</b>	<b>PULL BUILDING PERMITS-FY 2002-03</b> <u>11 permits</u> must be pulled from the Building Division:	<del>May 8, 2003</del> September 30, 2003



**VIII. COMMENCE CONSTRUCTION-FY 2002-03**

Construction must have begun on 11 permits.

~~June 30, 2003~~  
December 30, 2003

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Failure to obtain building permits and commence construction by the date listed above, shall result in the loss of building allocations. Submittal of a Final Map Application or a Building Permit Application, six (6) or more months beyond the filing dates listed above shall result in applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additional, failure to meet the Final Map Submittal, Building Permit Submittal, or Pull Permit deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 5 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 18<sup>th</sup> Day of December 2002 and was finally adopted at a regular meeting of said Council on the 15<sup>th</sup> Day of January, 2003 and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES:**           **COUNCIL MEMBERS:**  
**NOES:**          **COUNCIL MEMBERS:**  
**ABSENT:**       **COUNCIL MEMBERS:**  
**ABSTAIN:**      **COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

---

**Irma Torrez, City Clerk**

---

**Dennis Kennedy, Mayor**

**☪   CERTIFICATE OF THE CITY CLERK   ☪**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1598, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 15<sup>th</sup> Day of January, 2003.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** *December 18, 2002*

### **DEVELOPMENT AGREEMENT APPLICATION, DA-02-07: SHAFER - BAMDAD**

#### **RECOMMENDED ACTION(S):**

1. Open/close Public Hearing
2. Waive the First and Second Reading of Ordinance
3. Introduce Ordinance

**EXECUTIVE SUMMARY:** The applicant is requesting approval of a development agreement for a 15-unit single-family project located west of Hill Rd, at the terminus of Shafer Ave. and Katybeth Way, north of Conte Way. The subject development, referred to as Tuscany Meadows, received 15 building allotments in the 2001 Measure P competition. The project received seven allotments for FY 2003-04 and eight allotments for FY 2004-05. A copy of the proposed development plan is attached for the Council's reference.

In accordance with established Council policy, all residential projects awarded building allotments through the Residential Development Control System (Measure P) must secure Council approval of a Development Agreement. The purpose of this agreement is to formalize the commitments made during the Measure P process, and to establish a development schedule and mechanism to monitor the progress of the project. Project specific commitments made during the Measure P process are identified in Paragraph 14 of the development agreement, and the development schedule is contained in Exhibit B.

Development agreements are typically processed concurrently with the related subdivision application. However, the applicant has requested early review/approval of the development agreement to establish the development schedule. Specifically, the applicant is requesting that Exhibit B incorporate additional time for the filing of the site review application, final map, and building permit submittal. Standard development agreements contain hard deadlines for the filing of applications: Sept. 1, 2002 for site review applications, Feb. 1, 2003 for final map, and July 1, 2003 for building permit submittal (for FY 2003-04 allotments). The applicant is requesting additional time to file a site review application because the original project designer is no longer in business, and the applicant was forced to find a new architect to finalize the building plans. An extension for the final map submittal is requested due to the extended site review deadline. Finally, an extension for submittal of building permits is requested due to uncertain economic conditions and forecasts. It should be noted that, although additional time is requested for map and plan submittals, the request is not considered an Exception to Loss of Building Allotment (ELBA), as the development agreement has not yet been approved and an extension of the deadline to commence construction is not requested.

The Planning Commission reviewed the development agreement application at their November 12 meeting, and unanimously recommended approval, with modification to the deadlines to apply for and obtain building permits. A circulation commitment [Paragraph 14(n)(ii)] was also modified to allow for bus improvements as approved by Public Works. A copy of the November 12 Commission staff report and minutes are attached for Council's reference. Staff recommends approval of the development agreement as attached, and as approved by the Planning Commission.

**FISCAL IMPACT:** None. Filing fees were paid to the City to cover the cost of processing this application.

**Agenda Item # 17**

**Prepared By:**

**Associate Planner**

**Approved By:**

**Community  
Development Director**

**Submitted By:**

**City Manager**

**ORDINANCE NO. 1599, NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT FOR APPLICATION MP-01-07: SHAFER-BAMDAD (APN 728-10-005)/(DA-02-07: SHAFER-BAMDAD)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:**

**SECTION 1.** The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

**SECTION 2.** The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

**SECTION 3.** The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 02-36, adopted May 14, 2002, has awarded allotments to a certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP-01-07: Shafer - Bamdad	7 allotments (Fiscal Year 2003-04) 8 allotments (Fiscal Year 2004-05)

**SECTION 4.** References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill.

These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

**SECTION 5.** The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

**SECTION 6.** Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

**SECTION 7.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any

situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 8.** Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 18<sup>th</sup> Day of December 2002 and was finally adopted at a regular meeting of said Council on the 15<sup>th</sup> Day of January, 2003 and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES: COUNCIL MEMBERS:**  
**NOES: COUNCIL MEMBERS:**  
**ABSENT: COUNCIL MEMBERS:**  
**ABSTAIN: COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Irma Torrez, City Clerk

\_\_\_\_\_  
Dennis Kennedy, Mayor

**🦋 CERTIFICATE OF THE CITY CLERK 🦋**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1599, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 15<sup>th</sup> Day of January, 2003.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: December 18, 2002***

### **DEVELOPMENT AGREEMENT DA 02-10: E. Dunne Ave.-**

### **First Community Housing**

#### **RECOMMENDED ACTION(S):**

1. Reconvene/close Public Hearing
2. Waive the First and Second Reading of Ordinance
3. Introduce Ordinance

**Agenda Item # 18**

**Prepared By:**

**Senior Planner**

**Approved By:**

**Community  
Development Director**

**Submitted By:**

**City Manager**

**EXECUTIVE SUMMARY:** This item was continued from the December 4 meeting due to improper noticing. Notices have been resent so action can now be taken on this item.

The applicant is requesting approval of a development agreement for the final phase of the Murphy Ranch project located on the southeast corner of the intersection of E. Dunne Ave. and Butterfield Blvd. The first phase of the project, consisting of 62 apartment units, is currently under construction. The final phase will consist of 38 additional apartment units.

This project competed in the 1998 Measure P competition for affordable housing building allotments and received 24 allotments for fiscal year 2000-01 and 38 for 2001-02. The project competed again in October 2001 and received the remaining 38 units (18 allocations for 2003-04 & 20 allocations for FY 2004-05) needed to complete the 100-unit project.

The City Council approved the precise development plan for the 100 unit project and a development agreement for 62-units on December 20, 2000. The Site and Architectural Review application was approved by the Planning Division in June 2000. The project is currently under construction and has pulled all of its building permits for the first two phases.

In accordance with the processing schedule for projects receiving allocations in FY 2003-04, First Community Housing filed an application for development agreement approval. The proposed development agreement will cover the last phase of the project, which consists of the final 38 building allotments. The development agreement is a formal contract between the developer and the City. The development agreement formalizes the commitments made during the MP process and the development schedule for the project. The 2001 MP commitments and a development processing schedule have been included within the agreement.

This application was reviewed by the Planning Commission at its November 26, 2002, meeting. The Commission voted 6-0-1 (Commissioner Escobar absent), approving the request. The Planning Commission staff report and minutes are attached for the Council's reference.

**FISCAL IMPACT:** None. Filing fees were paid to the City to cover the cost of processing this application.

**ORDINANCE NO. 1600, NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
MORGAN HILL APPROVING A DEVELOPMENT  
AGREEMENT, DA-02-10: E. DUNNE-FIRST COMMUNITY  
HOUSING FOR APPLICATION MP 01-12: E. DUNNE-FIRST  
COMMUNITY HOUSING (APN 817-11-069)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY  
ORDAINS AS FOLLOWS:**

**SECTION 1.** The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

**SECTION 2.** The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

**SECTION 3.** Pursuant to Chapter 18.78.380 of the Morgan Hill Municipal Code, 38 building allotments were awarded to application MP 01-12: E. Dunne-First Community Housing for fiscal year 2003-2004 (18 allocations) and fiscal year 2004-05 (20 allocations); and

<u>Project</u>	<u>Total Dwelling Units</u>
MP 01-12: E. Dunne- First Community Housing	38 building allotments

**SECTION 4.** References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

**SECTION 5.** The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

**SECTION 6.** Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

**SECTION 7.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 8.** Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 18<sup>th</sup> Day of December 2002 and was finally adopted at a regular meeting of said Council on the 15<sup>th</sup> Day of January, 2003 and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES: COUNCIL MEMBERS:**  
**NOES: COUNCIL MEMBERS:**  
**ABSENT: COUNCIL MEMBERS:**  
**ABSTAIN: COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**Irma Torrez, City Clerk**

\_\_\_\_\_  
**Dennis Kennedy, Mayor**

**☪ CERTIFICATE OF THE CITY CLERK ☪**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1600, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 15<sup>th</sup> Day of January, 2003.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**





## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** *December 18, 2002*

**Agenda Item # 19**

**Prepared By:**

**Senior Planner**

**Approved By:**

**Community  
Development Director**

**Submitted By:**

**City Manager**

### **ZONING AMENDMENT AND DEVELOPMENT**

#### **AGREEMENT APPLICATIONS ZAA 01-10/DA 02-08:**

#### **CENTRAL AVE.-WARMINGTON**

##### **RECOMMENDED ACTION(S):**

1. Open/Close Public Hearing
2. Waive the reading in full of the Zoning Amendment Ordinance
3. Introduce on first reading the Zoning Amendment Ordinance (roll call vote)
4. Waive the reading in full of the Development Agreement Ordinance
5. Introduce first reading the Development Agreement Ordinance

**EXECUTIVE SUMMARY:** This is a request for the approval of a zoning amendment application to amend an approved Residential Planned Development and to approve a development agreement for an 8-lot subdivision within the Morgan Lane project. The Morgan Lane project by Warmington Homes, spans a 28-acre area from E. Main Ave. north, to the southerly boundary of the Morgan Hill Ranch. Warmington Homes has recently begun construction on the 18.5-acre portion of the project located on the north side of East Central Ave.

In November 2001, the City Council approved a precise development plan, subdivision and a development agreement for 41 units. The approved ordinance for the RPD only acknowledges the Morgan Lane project as having 41 units. The current amendment request is to have the ordinance amended to include all 59 units proposed on the 18.5 acres located on the north side of Central Ave. A future phase of the project, consisting of 9.7 acres on the south side of East Central Ave, extending south to East Main Ave., will be added to the RPD at a later date under a subsequent zoning amendment application.

The 18 lots added with this amendment were shown on the approved RPD plan but were not specifically called out as part of the RPD. The lot sizes and locations are the same as those shown in the November 2001 RPD approval. The RPD amendment requested at this time does not represent a physical change to the plan. The amendment is solely for recognition of the total unit count for the 18.5 acre portion of the project located on the north side of East Central Ave.

In May 2002, the Planning Commission awarded the Warmington Home's project eight additional allotments for Fiscal Year 2003-04. A standard development agreement (Exhibit A) has been prepared for the 8-lot portion of the proposed project. The current application has been reviewed for consistency with Measure P commitments which have been incorporated into the standard development agreement.

These applications were reviewed by the Planning Commission at the November 26 meeting. The Commission voted 7-0 in favor of approval of the zoning amendment and development agreement requests. The Commission staff report and minutes are attached for Council's reference.

**FISCAL IMPACT:** None. Filing fees were paid to the City to cover the cost of processing this application.

## **ORDINANCE NO. 1601, NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT TO AMEND A PRECISE DEVELOPMENT PLAN TO ALLOW FOR A 59 UNIT R-1 (7,000)/RPD SINGLE-FAMILY RESIDENTIAL PLANNED DEVELOPMENT LOCATED ON THE NORTH SIDE OF CENTRAL AVENUE - SOUTH OF MORGAN HILL BUSINESS PARK, BETWEEN SERENE DRIVE AND BUTTERFIELD BLVD. (APNS 726-28-001 & 002)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:**

- SECTION 1.** The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.
- SECTION 2.** The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.
- SECTION 3.** An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A mitigated Negative Declaration will be filed.
- SECTION 4.** The City Council finds that the proposed RPD amendment is consistent with the criteria specified in Chapter 18.18 of the Morgan Hill Municipal Code.
- SECTION 5.** The City Council hereby approves of an amended precise development plan as contained in that certain series of documents dated November 20, 2002 on file in the Community Development Department, entitled "The Morgan Lane Subdivision" prepared by M.H. Engineering. This certain series of documents replaces the August 24, 2001 documents referenced under Ordinance 1537. These documents, as amended by site and architectural review, show the exact location and sizes of all units in this development and the location and dimensions of all proposed buildings, vehicle and pedestrian circulation ways, recreational amenities, parking areas, landscape areas and any other purposeful uses on the project.
- SECTION 6.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.
- SECTION 7.** Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 18<sup>th</sup> Day of December 2002 and was finally adopted at a regular meeting of said Council on the 15<sup>th</sup> Day of January, 2003 and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES: COUNCIL MEMBERS:**  
**NOES: COUNCIL MEMBERS:**  
**ABSENT: COUNCIL MEMBERS:**  
**ABSTAIN: COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**Irma Torrez, City Clerk**

\_\_\_\_\_  
**Dennis Kennedy, Mayor**

**☪ CERTIFICATE OF THE CITY CLERK ☪**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA**, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1601, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 15<sup>th</sup> Day of January, 2003.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**

**ORDINANCE NO. 1602, NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
MORGAN HILL APPROVING A DEVELOPMENT  
AGREEMENT, DA 02-08 FOR MP 01-09: CENTRAL AVE.-  
WARMINGTON (APNS 726-28-001 & 002)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY  
ORDAINS AS FOLLOWS:**

**SECTION 1.** The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

**SECTION 2.** The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

**SECTION 3.** The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 02-36, adopted May 14, 2002, has awarded allotments to that certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP 01-09: Central Ave.-Warmington	8 single-family homes

**SECTION 4.** References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

**SECTION 5.** The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

**SECTION 6.** Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

**SECTION 7.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 8.** Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 18<sup>th</sup> Day of December 2002 and was finally adopted at a regular meeting of said Council on the 15<sup>th</sup> Day of January, 2003 and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES: COUNCIL MEMBERS:**  
**NOES: COUNCIL MEMBERS:**  
**ABSENT: COUNCIL MEMBERS:**  
**ABSTAIN: COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**Irma Torrez, City Clerk**

\_\_\_\_\_  
**Dennis Kennedy, Mayor**

**☪ CERTIFICATE OF THE CITY CLERK ☪**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1602, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 15<sup>th</sup> Day of January, 2003.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** *December 18, 2002*

### **URBAN SERVICE BOUNDARY ADJUSTMENT 01-07: DIANA-KUBO**

#### **RECOMMENDED ACTION(S):**

1. Open/close Public Hearing.
2. Adopt Mitigated Negative Declaration
3. Motion to adopt resolution approving an amendment to the Urban Service Area boundary.

**EXECUTIVE SUMMARY:** The City has received a request to amend the City's Urban Service Boundary to include three parcels totaling 19.87 acres located east of and adjacent to Highway 101, approximately 1,200 feet north of E. Dunne Ave. The requested site has a General Plan land use designation of Office Industrial. This area is shown on Exhibit A.

In addition to this privately initiated request, staff is recommending two other areas be included within the Urban Service Area. One of the areas is approximately 12 acres in size, is zoned PUD/HC and is in the city limits but is not within the Urban Service Area. Much of this area is currently developed with a gas station, two fast-food restaurants and a hotel. The other area is approximately 26 acres in size and includes portions of Highway 101 and the Madrone Channel. The inclusion of the second area would be a mapping clean up matter since the highway and channel are developed to their ultimate use. These additional areas are shown on Exhibit B. The total recommended application area would be expanded to 57.9 acres as shown in Exhibit C.

An expanded initial study was completed which covers the 19.9 acre area contained in the applicant's request. No specific development is proposed at this time so the environmental review evaluates the potential impacts related to the potential build out of the 19.9 acre based on the adopted General Plan land use designation. As part of the 30-day circulation of the mitigated negative declaration, comments were received from the Santa Clara Valley Water District and LAFCO. Letters responding to those comments are attached for the Council's review.

On November 26, the Commission voted (7-0) recommending approval of the Urban Service Area request to include the recommended additions as shown in the attached Exhibit C and approval of the mitigated Negative Declaration. A copy of the Commission's staff report and minutes are attached for the Council's reference. A copy of the initial study is included in the Council packet for the Council's review.

**FISCAL IMPACT:** None. Filing fees were paid to the City to cover the cost of processing this application.

**Agenda Item # 20**

**Prepared By:**

**Senior Planner**

**Approved By:**

**Community  
Development Director**

**Submitted By:**

**City Manager**

## **RESOLUTION NO. 5630**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING THE INCLUSION INTO THE CITY'S URBAN SERVICE AREA A 57.63 ACRE AREA LOCATED ON THE NORTH EAST QUADRANT OF THE INTERSECTION OF E. DUNNE AVE. AND HIGHWAY 101**

**WHEREAS**, such request was considered by the City Council at their regular meeting of December 18, 2002, at which time the City Council approved Urban Service Boundary application USA 01-07: Diana-Kubo; and

**WHEREAS**, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

**NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:**

**SECTION 1.** The City Council finds that the proposed inclusion of territory into the Urban Service Areas is consistent with the General Plan because the development of the parcel is cost effective for the City.

**SECTION 2.** The City Council finds that proposed boundary adjustment is logical and beneficial due to the lack of developable parcels with an Office Industrial General Plan land use designation within the existing Urban Service Area or City Limits. The proposed boundary adjustment also allows for the clean up of boundary inconsistencies where parcels within the City Limit and Urban Growth Boundary would be included within the Urban Service Area boundary. It is requested that the Local Agency Formation Commission consider readjustment of the Morgan Hill Urban Service boundary to include the area shown in the attached Exhibit D.

**SECTION 3.** The City Council finds that the inclusion of the property within the Urban Service Area boundary will further the City's fulfilment of its General Plan Land Use Goal 2: An orderly and efficient pattern of development; and Goal 11: Adequate land for industrial development.

**SECTION 4.** The City Council finds that the proposed inclusion of territory into the Urban Service Areas is consistent with the General Plan.

**SECTION 5.** An environmental initial study has been prepared for this project, and has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. A Mitigated Negative Declaration has been filed.

**SECTION 6.** No conversion of the Commercial or Office Industrial General Plan land use designation to a residential land use designation on the parcels contained in U.S.A. 01-07 shall be allowed except as provided in Section 18.62.070 of the Morgan Hill Municipal Code.

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 18<sup>th</sup> Day of December, 2002 by the following vote.

**AYES:**           **COUNCIL MEMBERS:**  
**NOES:**       **COUNCIL MEMBERS:**  
**ABSTAIN:**   **COUNCIL MEMBERS:**  
**ABSENT:**     **COUNCIL MEMBERS:**

**🍷 CERTIFICATION 🍷**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Resolution No. 5630, adopted by the City Council at the Regular Meeting on December 18, 2002.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

**DATE:** \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**





## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** *December 18, 2002*

### **APPLICATION ZA-02-17: ESTABLISHING ZONING REGULATIONS FOR PARKING LOT & SIDEWALK SALES**

#### **RECOMMENDED ACTION(S):**

1. Open/close Public Hearing
2. Waive the First and Second Reading of Ordinance
3. Introduce Ordinance

#### **EXECUTIVE SUMMARY:**

At the request of the City Council, staff and the Planning Commission conducted a review of the Zoning Ordinance requirement for a temporary use permit (TUP) for parking lot and sidewalk sales. This request was made following the City's issuance of two temporary use permits in October for used car tent sales. As part of the review, the Council asked that the following items be considered:

1. As a condition of a TUP, require a temporary sales tax permit to be filed to ensure that the point of sales is in Morgan Hill.
2. Prohibit banners, balloons, etc., that would create a "carnival atmosphere."
3. Consider the Chamber of Commerce's recommendation to limit parking lot sales to local businesses only.

The Planning Commission reviewed this matter at their November 12 and December 10, 2002 meetings and voted 7-0 to recommend the Zoning Code be amended as outlined in the attached Ordinance. The proposed changes would require an applicant obtain a temporary seller's permit before the event. The application must state that sales would be conducted in the City of Morgan Hill. Other Code changes would require an applicant to obtain a city business license and to post a cash bond to ensure that the site is returned to a clean and debris-free state.

Regarding item #2 above, the Commission noted that use of pennants, balloons, searchlights, etc., are already prohibited under Section 18.76.130.A of the Sign Code. Imposing these restrictions is therefore a matter of code enforcement. Responding to item #3 above, the City Attorney advised that limiting parking lot sales to local businesses only would violate commercial free speech and the Commerce Clause provision under the United States Constitution. Inclusion of this restriction is therefore not recommended.

Responding to the issue of whether to allow temporary used car tent sales, the Planning Commission acknowledges that this use could negatively impact local car dealerships while the event is taking place. On the other hand, it was noted in testimony before the Planning Commission that the two events in October attracted approximately 2000 customers, many from outside of Morgan Hill. Approximately 120 vehicles were sold. The City will receive the benefit of the sales tax and local businesses in the area reported an increase in customers when the two events occurred. Overall, the Commission felt that temporary used car sales events would have a net economic benefit to the community and should be allowed. Commissioners also felt that the current limit of seven days in any 180-day period was too restrictive and is recommending that the Code be changed to allow a frequency of seven days in any 90-day period. The attached staff report and minutes provide additional background information on this item.

**FISCAL IMPACT:** The final cost for preparation of staff reports, meetings and other research for this item has not been determined. The cost will be charged to the Community Development Fund pursuant to City Council Policy.

**Agenda Item #21**

**Prepared By:**

**Planning Manager**

**Approved By:**

**Community  
Development Director**

**Submitted By:**

**City Manager**

**ORDINANCE NO. 1603, NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
MORGAN HILL AMENDING SECTION 18.54.160 OF THE  
MORGAN HILL MUNICIPAL CODE ESTABLISHING  
REGULATIONS FOR PARKING LOT AND SIDEWALK  
SALES**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY  
ORDAIN:**

**SECTION 1.** Subsection A § 18.54.160 of the Morgan Hill Municipal Code is amended to read as follows:

A. Parking Lot/Sidewalk Sales. Such uses shall be limited to seven days in any ~~one-~~  
~~hundred eighty-day~~ *ninety day* period *and shall be subject to the following requirements:*

- 1. A business or other entity conducting a parking lot or sidewalk sale shall obtain a city business license at least 14 days prior to the date of such sale.*
- 2. Prior to issuance of a temporary use permit, an application for a temporary seller's permit shall be filed with the State of California Board of Equalization and the applicant must state on the form that the sales will take place in the City of Morgan Hill.*
- 3. Prior to issuance of a temporary use permit, the applicant shall provide a cash deposit to the Community Development Department to ensure the parking lot is returned to a clean and debris-free state.*

**SECTION 2.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 3.** Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

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The foregoing ordinance was introduced at the regular meeting of the City Council of the

City of Morgan Hill held on the 18<sup>th</sup> Day of December 2002 and was finally adopted at a regular meeting of said Council on the 15<sup>th</sup> Day of January, 2003 and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES: COUNCIL MEMBERS:**  
**NOES: COUNCIL MEMBERS:**  
**ABSENT: COUNCIL MEMBERS:**  
**ABSTAIN: COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**Irma Torrez, City Clerk**

\_\_\_\_\_  
**Dennis Kennedy, Mayor**

**☪ CERTIFICATE OF THE CITY CLERK ☪**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA**, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1603, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 15<sup>th</sup> Day of January, 2003.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**



# **REDEVELOPMENT AGENCY STAFF REPORT**

**MEETING DATE:** *December 18, 2002*

## **IMPLEMENTATION PLAN (2000 - 2004) MID-TERM REPORT**

**Agenda Item # 22**

**Approved By:**

**BAHS Director**

**Submitted By:**

**Executive Director**

### **RECOMMENDED ACTION(S):**

- 1) Conduct a Public Hearing; and**
- 2) Accept the City of Morgan Hill Redevelopment Agency Implementation Plan (2000 - 2004) Mid-Term Review of Accomplishments**

### **EXECUTIVE SUMMARY:**

California Community Redevelopment Law (CCRL), Health and Safety Code Section 33000, et seq., requires redevelopment agencies to adopt five-year implementation plans. The Morgan Hill Redevelopment Agency adopted its first Implementation Plan in November 1994. The current Five Year Implementation Plan, which is effective from January 2000 through December 2004, was adopted on December 14, 1999. CCRL also requires Agency's to hold a public hearing between Years 2 and 3 of the five year period to report on the progress in implementing the five year implementation plan. The attached "Mid-Term" Review of Accomplishments covers the first two years and ten months of the current plan.

The attached "Mid-term Review of Accomplishments contains:

- 1) A brief review of Agency goals and objectives for the Project Area and how these programs will eliminate blight and implement the Agency's housing requirements;
- 2) A summary of specific project categories to meet the Agency Goals and Objectives. These project categories include community facilities, street improvements, flood control projects, water and sewer projects, economic development projects, housing projects, and program administration including unallocated funds;
- 3) A funding allocation analysis is outlined for each project category. This summary lists the revised allocations established by the Agency Board in 1999 for each project, amounts expended or committed to date, estimated expenditures proposed to be made during this Five Year Implementation Plan, and funding that remains within each category for the life of the Plan;
- 4) A review of the Agency's progress toward achieving the goals and objectives for each of the specific projects within each project category.
- 5) A summary of the Agency's efforts in producing affordable housing. The Agency continues to far exceeds its housing obligations per CCRL.

Finally, this report clearly demonstrates that the Agency has made significant progress on each of the projects within all project categories and is on track to achieve all of the Agency goals and objectives set for the Five Year Implementation Plan.

**FISCAL IMPACT:** Not applicable.



## **REDEVELOPMENT AGENCY STAFF REPORT**

**MEETING DATE:** *December 18, 2002*

### **Replacement Housing Plan For Royal Court Housing Project**

**RECOMMENDED ACTION:** Adopt the Replacement Housing Plan for the Royal Court Housing Project.

**EXECUTIVE SUMMARY:** Earlier this evening, the Redevelopment Agency Board considered the Royal Apartments, located at 17925-35 Monterey Road, as one of the "opportunity sites" identified in the Comprehensive Housing Strategy. At their January 2002 retreat, the Agency specifically identified the apartment complex as a project to target within the Strategy. In an effort to facilitate the project, the Agency asked South County Housing Corporation (SCH) to explore the possibility of constructing a new housing development on this and adjacent sites. As a result, SCH has negotiated an option to purchase the Royal Apartments, as well as the property on the south side of that complex, 17915 Monterey Road. SCH also has an option to purchase the two parcels directly behind the Royal Apartments, which front on Del Monte Avenue. Together, the four parcels comprise 4.4 net acres. The Royal Apartments consists of a motor-hotel built in the 1930's, containing 10 units now used for permanent housing. The other Monterey facing property contains two small rental houses from the same era. One of the Del Monte parcels has an older house which faces Wright Avenue. The second Del Monte parcel is vacant.

SCH plans to remove the existing 13 residential units and replace them with 48 or more new units. Thirteen of the new homes would be ownership townhouses. The remaining 35+ units would be apartments. The easternly 1.2 acre portion of the site, fronting Monterey Road, would be separated from the residential project; would retain its commercial zoning, and would be sold.

This report seeks adoption only of the Replacement Housing Plan. Staff plans to negotiate potential loan agreements with SCH to exercise purchases and develop this project by the end of February, 2003. We will return to seek project and funding approvals at that time. Under the current Residential Control Ordinance, it is unlikely that this project would receive an allocation until FY 05-06 and 06-07.

California Redevelopment Law (CRL) requires redevelopment agencies to prepare a Housing Replacement Plan (Plan) to address the removal of existing housing. CRL further requires that the Plan be adopted a minimum of 30-days prior to the execution of any Owner Participation Agreement involving Agency funding for the project. CRL requires the Plan to show that no more than four years will elapse before the replacement units are available. The Plan must also demonstrate that all of the replacement units will be available at affordable housing costs to the same or lower-income households than those who were displaced from the destroyed units.

Under the attached Replacement Housing Plan, construction would be completed within the required four years. The sizes and income designations of the new apartments are such that the affordability requirement is exceeded. Should the Agency not approve the concept of the Royal Court Housing Project, the Replacement Housing Plan would not need to be approved at this time.

**FISCAL IMPACT:** No budget adjustment is required at this time. Staff anticipates returning to make a formal request for project approval and funding at a later date.

**Agenda Item # 23**

**Prepared By:**

**BAHS Analyst**

**Approved By:**

**BAHS Director**

**Submitted By:**

**Executive Director**

**REPLACEMENT HOUSING PLAN**  
**for the**  
**ROYAL COURT HOUSING PROJECT**

Morgan Hill Redevelopment Agency  
17555 Peak Avenue  
Morgan Hill, CA 95037

December 6, 2002

**INTRODUCTION**

The Morgan Hill Redevelopment Agency (“Agency”) is contemplating the execution of an Owner Participation Agreement (“OPA”) and/or Loan Agreement (the “Loan Agreement”) with South County Housing Corporation (SCH), a California non-profit corporation, for the revitalization of a portion of the Ojo de Agua Project Area, commonly referred to as the “Royal Court Project” (the “Project”). The Project consists of approximately four and three-quarters (4.73) acres comprising four (4) parcels, located on the east side of Del Monte Avenue at the north side of Wright Avenue, as depicted on the site map attached hereto and incorporated herein by reference (the “Property”). Monterey Road forms the westerly edge of this irregularly shaped Property. The Property will need to undergo a general plan change and rezoning to achieve the goals of the proposed Project. Implementation of the OPA and/or Loan Agreement would require the removal of all 13 housing units presently located on the Property. All 13 units are currently occupied, and preliminary interviews indicate that all of the households of these units constitute Very Low-Income Households (VLI) under Health and Safety Code Section 50105.

Health and Safety Code Section 33413(a) requires that whenever dwelling units housing persons and families of low or moderate income will be destroyed or removed as a result of redevelopment activities, a redevelopment agency must, within four years of the destruction or removal of such units, cause the rehabilitation, development or construction of an equal number of replacement dwelling units. The new units must contain an equal or greater number of bedrooms. They must be for rent or sale to persons and families whose income levels are the same as, or lower than the displaced families. Rents or mortgage costs must also be “affordable”, as defined by California Redevelopment Law, to households having those same income levels.

The replacement housing units in this plan represent the permanent housing units for the Project. The replacement units will be built on the Property and within the prescribed four year period. The 13 units to be demolished will be replaced with at least 48 affordable housing units.

## **PROJECT DESCRIPTION**

The Project is intended to alleviate a seriously blighted condition within the Ojo de Agua Project Area. The Project will eliminate the Royal Apartments (a 10-unit commercial motor court property from the 1930's that had been converted to permanent housing) and three houses built during that same era. The Property will be turned into a single residential complex containing 35 or more apartments having one, two, three or four-bedrooms, and 13 ownership townhouses containing three or four bedrooms.

### **1. LOCATION AND TYPE OF REPLACEMENT HOUSING**

The replacement units will be built on the Property. The demolition of existing units will be the first step of a continuous construction process. The new rental housing units are being proposed as follows:

# of Units	Type	Income*
10	1-bedroom	ELI
6	2-bedrooms	ELI
8	2-bedrooms	VLI
4	3-bedroom	ELI
5	3-bedroom	VLI
2	4-bedroom	VLI

- \* ELI - Extremely Low-Income (35% of median income, adjusted for family size)  
VLI - Very Low-Income (50% of median income, adjusted for household size.)  
LI - Low-Income (60% of median income, adjusted for household size.)

The thirteen new ownership housing units are being proposed as follows:

# of Units	Type	Income
1	4-bedroom	120% of median
1	4-bedroom	100% of median
1	4-bedroom	80% of median
3	3-bedroom	120% of median
4	3-bedroom	100% of median
3	3-bedroom	80% of median

The current income and type mix for existing units is presumed to be as follows:\*\*

# of Units	Type	Income
10	1-bedroom	VLI
3	2-bedroom	VLI

- \*\* Certified Income Assessments have not been completed at the time of this writing. Income qualifications were determined as a result of preliminary interviews during the acquisition process.

The above tables indicate that the 48 proposed new units replacing the 13 existing units will be available at affordable housing costs to the same, or lower, income level households as the persons who will be displaced from the destroyed units. The final mix of units may vary from the above projection based on financing, availability of Morgan Hill's Residential Development Control System (RDCS) building allocations, and approved design/densities. Nonetheless, at a minimum, the existing 13 units will be replaced in accordance with California Redevelopment Law.

## 2. FINANCING REPLACEMENT HOUSING UNITS



The financing sources for the Project are anticipated to be a combination of federal HOME funds, Agency 20% Housing Set-Aside funds, California Housing Finance Agency HELP funds, an Affordable Housing Program Loan, loans from the Housing Trust of Santa Clara County, and conventional financing. In addition, SCH intends to apply for both federal and state Low Income Housing Tax Credits.

### **3. TIMETABLE FOR MEETING REPLACEMENT OBJECTIVES**

Pursuant to Health and Safety Code Section 33413(a), the Agency will meet its obligation to provide replacement affordable housing units within four years of removal of the 13 presumed affordable existing units on the Property. The existing units will be destroyed as part of a continuous construction process of the 48 replacement units. This will more than satisfy the one-for-one replacement requirement, as well as the income targeting requirement of the Health and Safety Code. Under Morgan Hill's current RDCS, it is unlikely that construction of any portion of this project could begin before April 2005. The RDCS may require the project to be built in two phases. If this were to happen, the project would not be completed until the latter half of 2008.

### **ARTICLE 34 COMPLIANCE**

Article XXXIV of the California Constitution (Article 34) requires that voter approval be obtained before any public body develops, constructs or acquires a "low rent housing project". The Project will replace 13 affordable housing units by providing 13 ownership homes and 35 additional affordable rental housing units. In 1998, the voters of Santa Clara County and the City of Morgan Hill passed Measure A. Since both the County and the City passed this initiative, Morgan Hill is allowed to participate in the County-wide authority to develop 520 new units per year (plus accruals) of low-income housing. The passage of this measure was in conformance with Article 34 as well as Section 33413 of the Health and Safety Code, which governs redevelopment agencies. The replacement and additional housing provided within the Project is included under the auspices of Measure A, thereby satisfying the provisions of Article 34. Agency staff will reserve a portion of the annual units, allowed county-wide, for this Project.



**REDEVELOPMENT AGENCY STAFF  
REPORT**  
**MEETING DATE:** December 18, 2002

**Agenda Item # 24**

**Approved By:**

\_\_\_\_\_  
**BAHS Director**

**Submitted By:**

\_\_\_\_\_  
**Executive Director**

**STATUS OF AGREEMENT WITH THE CHAMBER OF  
COMMERCE**

**RECOMMENDED ACTION(S):** Receive report from the Chamber of Commerce and determine if the current Agreement should remain in effect.

**EXECUTIVE SUMMARY:**

The Morgan Hill Chamber of Commerce has been providing supplementary business development services to the City/Redevelopment Agency for the past nine years. These services cover the areas of Economic Development, Downtown, and Tourism. City staff could not provide these additional services without adversely impacting existing workload and programs. For the current fiscal year, the Agency entered into a \$125,000 agreement with the Chamber to provide the following services;

Economic Development Activities

- Restructure the economic development committee;
- Business attraction and retention outreach activities;
- Host commercial brokers meetings and plan the second annual "Morgan Hill Site Visit & Forum;" and
- Create a vibrant economic development section of the Chamber's website.

Downtown Activities

- Participate as a board member of the Morgan Hill Downtown Association (MHDA) and assist with MHDA's activities.

Tourism Activities

- Restructure the tourism committee;
- Create a tourism section of the Chamber's website; and
- Work cooperatively with Gilroy on joint advertising.

The Agency requested the Chamber, as a condition of funding, to report back to the Agency in December on the progress of their activities. Attached is their status report for your review. The report provides a status update on each activity identified in their scope of work. It would appear significant progress has been made in some activities. It is unclear what the Agency's expectations are with regard to these services. The Agency will need to determine if these activities are sufficient to support the continuation of this Agreement.

**FISCAL IMPACT:** Depends on Agency Direction.



***CITY COUNCIL STAFF REPORT***  
***MEETING DATE: December 18, 2002***

**Agenda Item # 25**

**Prepared By:**

**Asst. to the City Mgr.**

**Submitted By:**

**City Manager**

**OFFICE SPACE FOR MAYOR AND CITY COUNCIL**

**RECOMMENDED ACTION:**

Provide direction to staff on options for the creation of office space at City Hall for the Mayor and City Council.

**EXECUTIVE SUMMARY:**

Earlier this year, the Council considered modifications at City Hall to provide office space for the Mayor and the City Council. A budget of \$100,000 was established, and a number of alternative scenarios were evaluated. At the July 31, 2002 City Council meeting, the Council decided not to move forward with any of the proposals in light of the City's restricted revenues.

Now that the Recreation Division has moved to the Community and Cultural Center, staff believes that office space could be provided for the Mayor at a low cost. Shared office space for City Councilmembers could also be provided at a minimal cost, if shared space is acceptable. Attachment A provides details on two alternatives for the Council's consideration. Option 1 provides an office for the Mayor only, in the office previously occupied by Therese Lugger. Option 2 provides an office for the Mayor in the office previously occupied by Therese Lugger and also provides shared office space and storage for the City Councilmembers in the office previously occupied by Julie Spier. The shared office space would be furnished with two workstations, including telephones, computers and a printer, and locking filing cabinets or overhead bins for each Councilmember.

In both of these options, two cubicle offices formerly used by Recreation staff would be available for use by future City staff or contract employees, and the El Toro conference room would remain as a City conference room. Implementing either of these options would not preclude the development of individual office space for each Councilmember or a Deputy City Attorney at a later time.

If approved by the Council, either Option 1 or 2 could be completed by mid-January 2003.

**FISCAL IMPACT:**

The proposals in Attachment A would provide office space for the Mayor, and, if desired, shared space for the Council, at a cost of \$10,000 or less. Of the \$100,000 originally budgeted in FY 2001-02 for office space for the Mayor and Council, \$89,000 was not spent and was carried over to FY 2002-03. The proposals in Attachment A could be funded from this source. The remaining funds could be returned to General Fund reserves or otherwise allocated by Council as desired.

## City Council Office Space Options

### Option 1: *Mayor's Office Only, No Dedicated Office Space for Councilmembers*

Mayor's office to be created in Therese Lugger's former office. Fixtures would include a desk, a filing cabinet, credenza or bookcase as desired, and a meeting table and chairs. A computer and printer would need to be purchased and is listed below.

Existing fixtures which could be reused:

- Black leather executive chair
- Telephone

Item	Number Needed	Estimated Cost	Comments
Computer	1	\$1,537.00	This would provide a new computer and monitor, plus MS Office and GroupWise software
Printer	1	\$382.00	The printer would be in the Mayor's office as the networked printer is not readily accessible.
Desk, filing cabinet or credenza, book case as needed	1	\$3,000.00	
Small meeting table	1	\$800.00	
Meeting chairs	4-6	\$0.00	Assume will use blue cloth-covered chairs from Council Chambers as needed.
<b>TOTAL FOR OPTION 1</b>		<b>\$5,719.00</b>	

**Option 2: Mayor's Office Plus One Shared Office for Councilmembers**

Mayor's office to be created in Therese Lugger's former office. Fixtures are the same as above, with an estimated cost of \$5,719.

Dedicated office space provided for Councilmembers in Julie Spier's former office. Fixtures to include two workstations, locked filing or overhead bin space for each Councilmember, two computers, printer, two chairs.

Existing fixtures which could be reused:

- Black leather executive chair
- Workstations, which include two covered, locking overhead bins and three under-counter locking file drawer units with a total of five file drawers.
- 3-drawer locking lateral file cabinet
- Telephones

<b>Item</b>	<b>Number Needed</b>	<b>Estimated Cost</b>	<b>Total</b>	<b>Comments</b>
Fixtures for Mayor's office, as outlined in Option 1	1	\$6,409.00	\$5,719.00	
Computers for Councilmembers	2	\$1,537.00	\$3,074.00	This would provide new computers and monitors, plus MS Office and GroupWise software
Printer for Councilmembers	1	\$382.00	\$382.00	
Chairs	2	\$400.00	\$800.00	Cloth-covered ergonomic chairs.
<b>TOTAL</b>			<b>\$9,975.00</b>	



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** *December 18, 2002*

**Agenda Item # 26**

**Prepared By:**

**BAHS Manager**

**Approved By:**

**BAHS Director**

**Submitted By:**

**City Manager**

### **ART IN PUBLIC PLACES**

**RECOMMENDED ACTION(S):** 1) Provide staff with comments on the "Discussion Guide for Developing a City Policy for Art in Public Places"; and 2) Direct staff to set-up a workshop, inviting interested parties to further discuss issues relating to the development of an art in public places policy for Morgan Hill.

**EXECUTIVE SUMMARY:** The recently updated (2001) General Plan recommends that the City develop a plan and standards to encourage, but not necessarily require, the inclusion of public art in all new and renovated nonresidential development projects. This plan was originally slated to be developed in FY2004-2005. The City Council recently directed staff to move-up the schedule and prepare a plan this fiscal year.

The attached "Discussion Guide for Developing a City Policy for Art in Public Places" (the Guide) was prepared as the first step towards exploring the major issues for developing a public art policy. To prepare the Guide, City staff collected and reviewed public art policies and ordinances from other cities. Staff also spoke with the larger developers in town and met with members of the City's ad-hoc committee on public art together with other interested parties to obtain their feedback.

There are many issues to consider when deciding whether to pursue an art in public places policy. The Guide raises the following key issues:

- Should public art be encouraged or required?
- Should it apply to only civic projects or private development projects, or both?
- What should the standards for public art be?
- Where should public art be located?
- What should the art selection process be?
- How should public art be funded?

Some of these issues are the same for both public and private projects. Some differ. For example, the art selection process for a civic project often involves an extensive public process. With a private project, public art could be selected and installed by the project developer or building owner.

Since the public art policies in most communities surveyed cover only permanent art, the Guide intentionally does not address temporary art installations. Most cities/counties with public art policies have an art advisory board to guide the selection process. Many have adopted policies with guidelines, and implementing ordinances to require public art. Public art is mostly required only for civic projects (as opposed to private developments). Contributions for most communities was between 1-2% of the total project cost or total construction cost. Many had no specified project cost limits to trigger the public art requirement. While conceptually, the public art policies have many similarities, the implementation methods differ.

Because of the numerous and involved issues relating to the development of a public art policy, staff recommends setting-up a workshop, inviting interested parties to discuss the topic.

**FISCAL IMPACT:** None at this time.

# **DEVELOPING A CITY POLICY FOR ART IN PUBLIC PLACES**

## **A Discussion Guide**

December 18, 2002

### **I. INTRODUCTION:**

The purpose of developing an art in public places policy is to promote art as an expression of the community's culture and to encourage the installation of artwork in places where it can readily viewed, enjoyed, and appreciated. In addition to its aesthetic benefits, public art also helps to attract business investment, stimulate visitor trade and add to the vitality of a city.

Many cities and counties have developed policies that promote, require, or regulate art in public places in one form or another. These policies usually fall into two general categories. One type of public art policy deals with the temporary display of artwork, for some defined time period, in public facilities. An example of this type of policy might include art exhibits in civic centers, community centers, or other public buildings. The second type of public art policy concerns the installation of permanent, durable artwork as a feature of a building or site development. This most often takes the form of freestanding art or artwork incorporated into public or private building facades or well-traveled public areas of community facilities, public parks, business parks, or shopping districts. This type of policy is usually incorporated into local building standards or ordinances that encourage or require works of art be incorporated into new construction and/or major building renovation. This discussion paper is limited to developing a policy addressing only this second type of permanent art in public places.

Many cities throughout the state have developed policies for art in public places. While the policies in most communities have some similarities, they vary widely in how they are structured and implemented. These policies have been tailored to fit local attitudes and tastes. Some cities have incorporated detailed guidelines in their policies that set parameters for the development and placement of public art. Usually, ordinances are later developed to implement the policies and guidelines. Finally, some cities have or are in the process of developing an art master plan to establish location priorities for public art.

Preliminary consideration has been given to developing an art in public places policy in Morgan Hill. Our recently updated General Plan supports the installation of art in public places. It includes a goal of achieving a visually attractive urban environment by establishing a policy to encourage the installation of public art in all new and renovated nonresidential development projects. It also recommends that the City develop a plan and standards to encourage, but not necessarily require, the inclusion of public art in these settings. It does not distinguish between public art at city facilities and public art within privately owned developments. While the overall definitions and objectives in a public art policy may be the same for public and private facilities, the means to accomplish these objectives will differ.

The intent of this discussion paper is to identify the major issues involved in developing a public art policy for Morgan Hill and to outline various options that may be developed and implemented within the community. Some of these issues pertain to both public and private projects. They include setting standards for qualifying works of art, guidelines to establish appropriate locations for art in public places, and defining certain thresholds for development projects which determine when and how much they should contribute to the installation of public art. Other major issues in establishing a public art policy will differ between public and private development. These issues include the process for selecting public art, funding to acquire and install public art, and maintaining public art over time.

## **II. ISSUES COMMON TO BOTH PUBLIC AND PRIVATE DEVELOPMENT PROJECTS:**

### **A. Standards for Public Art:**

By its very nature, setting any standards for art is difficult at best. Some common standards for art in public places include, but are not limited to:

- Quality original artwork (or limited edition reproductions by the artist) which is durable and long lasting in nature.
- Stand-alone art such as a sculpture.
- Art integrated into a building's architecture such as mosaics, sculptured facades, or murals as a part of walls, or walkways.
- Art specifically developed to be integrated into enhanced landscape features.

Public art should be compatible in style and scale with the overall project. It should also reflect the nature and culture of a community. Often, communities decide that the art work must be produced by a local artist (e.g., City of Morgan Hill, Santa Clara County, Bay Area, etc.) or an artist with local connections.

Standards for what public art should not include are as follows:

- Elements such as directional signs, graphics, logos and signs, except where these elements are integral parts of an original piece of art or public art project.
- Art objects that are mass produced of a standard design such as playground equipment, fountains, or other stationary objects.
- Mass reproductions of original works of art.
- Standard decorative, ornamental or functional elements of architecture unless these elements were designed by an artist, are an integral part of original artwork, and/or are the result of collaboration between design professionals and at least one artist.
- Standard landscape architecture or gardening elements except where specific elements are either designed by an artist, are integral parts of an overall work of art, or the result of collaboration among design professionals, including at least one artist.



## **B. Locations for Public Art:**

Public art should be located in places where it can be readily viewed by the public. Locating public art outdoors and prominently visible from public roads and walkways is one option. Public art can also include works that are located in outdoor courtyards, parks, parking lots or interior lobbies and public spaces of buildings and shopping developments that are accessible and frequented by the public. When developing guidelines for locating art, care should be taken not to place art in such a fashion to obstruct or distract from the safe flow of pedestrian or vehicular traffic.

## **C. Thresholds to Determine the Contributions to Public Art:**

Most communities with public art policies have established thresholds for when and under what circumstances public art is required, and how to fund it.

1. **What development projects must install public art?** Some communities require that all new construction or renovation projects, public or private, regardless of size, must install a piece of art or contribute to a public art fund. Others have determined that smaller projects are exempt. Some communities require public art only for public projects, while others require it only for private projects.

Some communities set a minimum threshold for the inclusion of public art based on the cost of construction or total project cost. Commonly seen threshold amounts are either \$250,000, \$500,000, or \$1,000,000. For renovation projects, a threshold is often set based on a percentage of the renovation cost.

Some communities recognize that certain projects may not be suitable for public art, either by virtue of their size, location, or nature of the project. For example, 1% of the construction cost of a small project may not be sufficient to purchase a “qualified” work of art. In some cases, there may not be room at the project site to install a piece of art. In other cases, the location of the development may not be sufficiently visible to the public. In these situations, the projects could either be deemed exempt from the public art requirement, or the developer could be allowed to make an “in-lieu” contribution to a public art fund. These contributions can then be combined to fund public art.

2. **How Much Money is a Project Required to Spend on Public Art?** Most communities with public art policies have determined that development projects must contribute a percentage of the total construction cost for public art. This methodology has the advantage of “designing-in” public art as an elements of a project. The percentage amounts vary from less than 1% to 5% of the total construction cost. The most common requirements are either 1% or 2%.

### **III. PUBLIC ART IN PRIVATE DEVELOPMENT PROJECTS:**

Community policies vary widely on whether public art is required by private developments. Some cities require that public art be installed at privately development projects, while others do not. Some require public art to only be installed in those developments that have received City or Redevelopment Agency financial assistance, or are located in a specified zone or redevelopment project area.

#### **A. Selecting Art in Private Projects:**

Some communities require that public art at private developments be reviewed by a public body or a city's professional staff. Oversight and approval of the design, location, style, theme, and selection of the artist and artwork can be required as either part of the city's architectural design review process, by a public art advisory board, a staff art manager, or some combination thereof. Art in private projects could be processed the same or similar to art in civic projects as described in Section IVA, below. For private projects, the amount and degree of review varies considerably. Aside from issues of artistic license and design, some of the policies that contain more regulated civic oversight and control can be subject to a variety of legal challenges involving first amendment rights.

At the other end of the spectrum are cities that allow private developers to commission and select their own public art. Public art guidelines developed by the city, together with some professional staff assistance to interpret them could be provided. With this option, the city relies entirely on the developer to select, purchase and install the artwork without further city intervention or approval.

#### **B. Funding Public Art in Private Projects:**

Most communities that do require public art at private developments generally apply the thresholds and funding principles described above. In essence, this would result in a new developer contribution, e.g., a "developer fee," which could be used either to purchase a piece of art or as a contribution to a public art fund. With the recent development impact fee increases, any additional city-required developer expenses will be extremely controversial.

#### **C. Maintaining Public Art in Private Projects:**

Maintaining public art installed by private developments projects becomes the responsibility of the developer and/or property owner. Language can be included in the public art policy and/or guidelines to ensure that the artwork is kept-up and maintained from damage, decay and vandalism over the course of its projected life.

### **IV. PUBLIC ART IN CIVIC DEVELOPMENT PROJECTS:**

The vast majority of cities have public art policies that require new or renovated public buildings to provide art. In addition to installing public art at civic buildings and other facilities, some policies include provisions to install public art at city gateways, entries to historic downtown areas, street medians and other publically-owned rights-of-way.

#### **A. Selecting Public Art in Civic Projects:**

Most communities that require public art in civic projects, and (sometimes) private projects that received City or Redevelopment Agency financial assistance, have detailed processes for selecting, approving, and purchasing art. The process often includes city staff (which may appoint an art manager) and/or an art selection committee and/or art advisory board. While the composition of these boards differ among communities, they are generally appointed by the City Council and may include a variety of people such as active artists with academic training or degrees in art, selected members of other existing boards and commissions (e.g., Architectural Review Board, Parks and Recreation Commission, etc.), local art patrons, and qualified citizens reflective of the community with an interest in art.

Before a proposed art project reaches the art advisory board, there are several basic decisions that need to be made. Generally, a site location is identified and an art concept is developed through discussions between city staff, the project architect, and the contractor to ensure compatibility with the rest of the project. For example, city staff and the architect may determine that a portion of a new building is appropriate for either a relief sculpture or wall mosaic. In cases where artwork is to be installed as a stand-alone object in a park or gateway, city staff may be able to develop the basic specifications. These steps and recommendations are often reviewed at key junctures with the art advisory board.

Once the basic specifications are developed, the actual piece of artwork can be procured through a competition or some other selection process and approved by the art advisory board. Sometimes, the art advisory board has the final word on the selection of public art. Other times, they make a recommendation to the City Council for final approval.

#### **B. Funding Public Art in Civic Projects:**

Funding public art is always challenging. Quality, original art work is expensive. Furthermore, it should not be overlooked that a small portion of the funding be allocated to the administrative support for the art selection and approval process.

Cities with public art policies covering civic projects approach funding in different ways. A few examples are listed below which can be implemented separately or in combination. Each has its advantages and disadvantages:

1. **Percentage of Total Project Cost Dedicated to Public Art:** By far the most common method to fund public art is to require that project budgets include a percentage of the cost for the installation of public art as noted above. Since many of

our community facility projects are already in the planning stages with allocated budgets, devoting a percentage of the total cost will either increase the overall project budget, be integrated into the existing budget, or require that cuts be made elsewhere in the building program.

2. **Public Art Fund:** Some cities opt to establish a public art fund which is regulated and controlled by the City. This fund could be used for either civic and/or private projects. The fund could receive contributions from a variety of sources including, but not limited to: the City General Fund, Redevelopment Agency funds, public art “in-lieu” contributions by private developers, private cash donations, grant funds (e.g. National Endowment for the Arts, other philanthropic organizations, etc.), and more. If the City decides to establish a such a fund, a public art master plan should be developed to guide the placement of the artwork. A public art fund could be used to wholly fund projects, or as supplemental or matching funds. The City of Lodi, for example, uses the matching fund concept to serve as an incentive for art in private projects.
3. **Direct Budget Allocation:** In addition to allocating project funds for public art and accumulating funds in a public art fund, some cities also choose to allocate funds for public art each year during the regular budget process. Funding sources include City General Fund or Redevelopment Agency funds. Public art projects would then be programmed annually into the City’s Capital Improvement Program. As projects are approved, funding is procured from the appropriate budgeted funds.
4. **Donated Art:** A final alternative to acquiring public art for civic projects, is to accept donated artwork. Establishing criteria are important to ensure that donated works of art are durable, easily maintained, and meet city standards for appropriate, permanent, public art installations.

#### **C. Maintaining Public Art in Civic Projects:**

Public art acquired for civic projects should be a type requiring low maintenance and easily accommodated in the regular city facility maintenance budget. Routine maintenance, damage, decay, and vandalism would be the responsibility of the city.

#### **V. SUMMARY:**

This discussion paper has provided a general overview of the major issues relating to the development of a policy for art in public places as it applies to permanent art installations. For every issue or suggestion included, there are many variations. Like art itself, the perfect public art policy is in the eye of the beholder. While only major issues are discussed here, City Council direction will be necessary to determine whether a public art policy is desired. If it is, further direction will be needed to develop the details of a public art policy including: establishing standards for public art in Morgan Hill, adopting location criteria, identifying funding possibilities, and proposing a

selection process. The end goal is the development of public art that fits with the local attitudes and tastes of our community.